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C O N F I D E N T I A L SECTION 01 OF 02 BRUSSELS 001196

SIPDIS

DEPT FOR EUR/SCE AND EUR/ERA

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TAGS: [PREL](#) [EUN](#) [SR](#) [KK](#)

SUBJECT: EU COUNCIL WANTS U.S. TO SUPPORT EULEX PROTOCOL  
WITH SERBIA

REF: A. USEU-EUR/SCE 6 AUGUST 2009 EMAIL

[1](#)B. USEU-EUR/SCE 28 AUGUST 2009 EMAIL

Classified By: USEU CDA Christopher Murray for reasons 1.4 (b) and (d).

[1](#)1. (C) Summary: In a formal demarche on August 28, EU Council Director General for Politico-Military Affairs Robert Cooper conveyed to Charge the EU's frustration with the Government of Kosovo's (GoK) resistance to a police cooperation protocol between EULEX and the Government of Serbia (GoS). Cooper criticized the GoK's opposition to the agreement and orchestrated campaign to discredit EULEX. He argued that the technical agreement that the EU wants would benefit the GoK in its fight against organized crime and corruption since it would provide the legal basis necessary for passing Serbian-origin information to the Kosovo police and government. In this last sense, Cooper suggested that the agreement could actually buttress the GoK's International Court of Justice (ICJ) case, though he said that the agreement was strictly technical in nature and intent, and did not carry any designs for the ICJ. Cooper requested that the U.S. encourage the GoK to support the protocol as written. He welcomed a possible visit to Brussels by the U.S. Ambassador Dell to Kosovo. End Summary.

The Call

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[1](#)2. (C) EU Council Director General for Politico-Military Affairs Robert Cooper called Charge on August 28 to formally relay the EU Council's growing frustration with the GoK's continued opposition to a proposed police cooperation protocol between the EU's Rule of Law Mission in Kosovo (EULEX) and Serbia. Pointing to the fifth paragraph of the protocol (ref a), Cooper said that it provided the legal basis for EU action and is status neutral. He found GoK claims that the agreement was prejudicial to Kosovo's ICJ case to be fully unfounded. He said that the EU had kept the GoK informed about the protocol "all along." For the past month however, the GoK has been showing concerted opposition to the protocol.

[1](#)3. (C) Referring to the fifth paragraph again, Cooper argued that it was status neutral, adding that EULEX's ability to pass documents to GoK authorities would actually buttress the GoK's ICJ case. Referring to GoK arguments that the agreement would weaken its ICJ case, he said that "none of this is relevant to the ICJ case" as the agreement was wholly technical in nature. Cooper reported that EULEX has been trying to explain to the GoK that there was no danger to them in this document and that the beneficiaries were actually

Kosovo's police and government, not Serbia. He went on to say that EULEX would also hope to complete similar agreements in the fields of customs and the judiciary. The agreements in these areas will be tougher to achieve than the present police protocol, Cooper said.

14. (C) Sharing with the Charge that there had been suggestions in Pristina about the possibility of a letter to Serbia that would operate in place of the agreement, Cooper said that, "the EU thinks the agreement is necessary." He reported that EU Special Representative Pieter Feith and EULEX Head of Mission General Yves de Kermabon continued to try to explain to the GoK that the agreement posed no risk to them. Despite their efforts, Cooper said, the GoK was "fomenting" a campaign to attack EULEX, to include harassment that evolved into several physical incidents. He added that the EU had over the past four weeks tried to discourage the GoK from its anti-EULEX campaign, all to no avail.

#### The Core Issue

15. (C) For Cooper, the core of the matter is that EULEX needs to cooperate with Serbs in the north and needs a written agreement in order to do this. He said that the EU was grateful for the efforts of our mission in Pristina in speaking with the GoK on August 27 and welcomed continued U.S. support in helping to calm the situation. Cooper said that the EU would especially appreciate U.S. support in getting the GoK to support the protocol in its current form. He added that the EU thought the U.S. would welcome such an

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agreement as it would enhance EULEX cooperation with Kosovo Serbs.

16. (C) According to Cooper, as long as the GoK thinks it can divide the international community (ref b), it would not agree to implementation of the police or any other needed protocol. Cooper said that the EU has already waited a month to sign the agreement with Belgrade, but cannot wait forever.

He suggested that if there were a better strategy to improve cross-border law enforcement cooperation, "let us know what that might be," adding that the EU "did not want to climb down" as the EU did not want to lose its credibility. Cooper welcomed the possibility of a visit by the new U.S. Ambassador in Pristina to Brussels. Among the subjects of discussion would be how best to "handle the GoK."

MURRAY

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